

- ◆ How do you know when the blood begins to spurt within the vein, as opposed to when it is flowing? [Use a stethoscope]
- ◆ Is there a normal range in which most people's systolic and diastolic blood pressures fall?
- ◆ What is the normal range for a person's systolic blood pressure? [120 to 140 mmHg]
- ◆ What is the normal range for a person's diastolic blood pressure? [70-90 mmHg]
- ◆ Is this a medically accepted range?
- ◆ Did you take the defendant's blood pressure?
- ◆ What were the results?
- ◆ Based upon your training and experience, what if anything did this indicate to you?

C. Temperature

- ◆ How do you determine the subject's body temperature?
- ◆ Do DREs rely on a range of normal in to which most people's body temperature falls?
- ◆ What is the normal range? [97.6-99.6]
- ◆ Is that a medically accepted range of normal?
- ◆ Did you take the defendant's body temperature?
- ◆ What were the results?
- ◆ Based on your training and experience, what if anything did this indicate to you?

7. Dark Room Examination

- Please describe the 7th STEP of the drug influence evaluation. [Eye examinations and nasal and oral examinations]
- *Eye Examinations:*
 - How do DREs determine the size of a person's pupils? [eye pupilometer]
 - How does an eye pupilometer work?

- Under what lighting conditions do DREs examine people's eyes?
 - ⇒ Room Light
 - ⇒ Darkness
 - ⇒ Direct Light
 - ⇒ ASK THE NEXT GROUP OF QUESTIONS FOR ALL LIGHTING CONDITIONS
 - * How do DREs perform the {room light} portion of this test?
 - * Did you perform the {room light} exam?
 - * What did you observe?
 - * Was there anything distinctive about the size of the defendant's pupils?
 - * Based on your training and experience, what if anything did this indicate to you?
- *Nasal and Oral Examinations*
 - When do you check the nasal and oral cavities? [During the dark room examination]
 - What kinds of things do DREs look for in the nose and mouth?
 - What do those things indicate?
 - Did you examine the nasal and oral cavities?
 - What did you observe?
 - Based on your training and experience, what if anything did this signify?

8. Examination of Muscle Tone

- Please describe the 8th step of the DRE evaluation.
- How do DREs examine muscle tone?
- Did you examine the subject's muscle tone in this case?
- What did you observe?
- Based on your training and experience, what did this indicate to you?

9. Check for Injection Sites and Third Pulse

- What is the 9th step of the DRE evaluation? Please describe it.

- How do DREs check for injection sites?
- What is the DRE procedure to inspect for injection sites? [run hands over arms, neck and feel for bumps, look at the arms, neck, etc.]
- How do DREs determine whether the bumps were caused by a needle or other things? [using a light and a magnifying lens]
- Did you examine the defendant for injection sites?
- What did you observe?
- Based on your training and experience, what did this indicate to you?

SKIP THIS SECTION IF THE DEFENDANT DID NOT WAIVE *MIRANDA*.
MAKE SURE TO INSTRUCT OFFICER NOT TO MENTION THIS SECTION!!
ALSO, DO NOT COUNT THE NUMBER OF STEPS IN THE DRE PROTOCOL
DURING YOUR QUESTIONS IF YOU ARE GOING TO BE SKIPPING THIS. IT
WILL BE OBVIOUS.

10. Suspect's Statements and Other Observations

- Please describe the 10th step of the DRE exam.
- Did you read the defendant *Miranda*?
- Did he/she agree to answer questions?
- Did you ask the defendant a series of questions?
- I'm going to go through the questions you asked. Please tell the jury his response to each question.
 - ⇒ Have you eaten today?
 - ⇒ When?
 - ⇒ What have you been drinking?
 - ⇒ How much?
 - ⇒ Time of last drink?
 - ⇒ Time now? What was the actual time?
 - ⇒ When did you last sleep?
 - ⇒ How long?

- ⇒ What medicine or drug have you been using?
- ⇒ How much?
- ⇒ Time of use?
- ⇒ Where were the drugs used?
- ⇒ Were you driving? [Do not ask question if defendant answered “No” - self-serving hearsay]
- ⇒ Do you feel that you are under the influence? [Do not ask question if defendant answered “No” - self-serving hearsay]

11. Opinions of Evaluator

- Please describe the 11th step of the DRE evaluation.
- Did you form an opinion in this case?
- What is that opinion?
- What are you basing that opinion on?
- IF THERE IS A CONFIRMATION IN THE TOX REPORT ASK THE FOLLOWING QUESTIONS [ensure officer is ready for questions]
 - ⇒ Officer, are you familiar with the drug ____?
 - ⇒ Is that drug within the drug category that you believe was under the influence of?
 - ⇒ How long does it take for that drug to have an effect on the body once the defendant has ingested it?
 - ⇒ How long will the effects of that drug last?

12. Toxicological Examination

- Please describe the 12th step of the DRE evaluation.
- Did you request a blood or urine sample?
- Did you inform the defendant of the implied consent law?
- What is the implied consent law?
- Did the defendant provide a blood or urine sample?
 - No
 - ⇒ Why not?

- Yes
 - ⇒ Please describe how you obtained the sample.
 - ⇒ Did the defendant provide a urine/blood sample?
 - ⇒ Did you witness the taking of the sample? Or did you collect it (describe)
 - ⇒ What did you do with the urine/blood sample after you obtained it? (establish chain of custody.)
 - ⇒ What happened to the blood/urine sample after you logged it in?
 - ⇒ How did you complete your evaluation of the defendant?

GENERAL QUESTIONS.

Have you had the opportunity to observe the defendant in court today?

Does he/she appear to have the same balance issues today? Slurred speech? Flushed face? Etc.)

How is the defendant's appearance different today than back on the date of violation?

ULTIMATE ISSUE

If you have qualified your officer as an expert, he/she should be able to testify to the defendant's impairment. (You may want to verify with the judge that he/she will allow this testimony.)

- Officer based on your training and experience, your observations during the DRE examination, and your review of all of the evidence in this case, including the toxicology results, have you formed an opinion regarding the defendant's ability to safely operate a vehicle at the time he was stopped?
- What is that opinion?

GENERAL QUESTIONS:

Have you, any member of your family, or close friend ever been charged with the same offense for which the defendant is on trial here today? (Pursue yes answer in individual voir dire.)

Have you, any member of your family, or close friend ever been involved as a witness in an incident such as is charged in this case or any other crime? (Pursue yes answer in individual voir dire.)

Do any of you know of any reason at all why you could not serve as a fair and impartial juror and decide this case without sympathy or prejudice to either side? (Pursue yes answer in individual voir dire.)

Is there any incident that may have occurred in your life that you feel the court should know about, even though you feel it would not influence your judgment in this case? (Pursue yes answer in individual voir dire.)

Is there anyone on the panel who does not drive an automobile?

ALCOHOL

- 1. For the ARS 28-1381(A)(1) impairment DUI charge, it is not against the law of this State for a person to have a drink or drinks of alcoholic beverage and then drive an automobile. Those two factors, standing alone, do not constitute a violation of the impairment DUI law. A driver is in violation of the**

impairment DUI law only if the alcohol consumed impairs one's ability to drive to the slightest degree. Do any of you believe that any person who drinks an alcoholic beverage and then drives a car has violated the law regardless of the effect on the driver or the quantity consumed? (If yes, give standard for DUI violation and ask if they can follow the law.)

2. per se charges

3. Are there any of you who do not, in fact, drink alcoholic beverages at any time?

Is the basis for your abstention a moral one, a medical reason, or just because you do not like the taste?

Do you have friends or family members who drink alcoholic beverages from time to time?

Do you attend social functions where alcoholic beverages are served?

Are you certain you could be fair and impartial in the trial of this case, notwithstanding the fact that you yourself do not drink?

7. Have you, any member of your family, or close friend ever been involved in a traffic accident in which alcohol was allegedly involved? (Pursue in individual voir dire.)

8. Have you, any member of your family, or close friend ever been a victim of a crime in which alcohol was allegedly involved or any other crime? (Pursue in individual voir dire.)
9. Do any of you consider yourselves, any member of your family, or close friend to be a "recovered alcoholic" or an alcoholic? (Pursue in individual voir dire.)
10. Do any of you have personal feelings about the charge of DUI that might make it difficult for you to be completely fair and objective? (Pursue in individual voir dire.)
12. Do any of you have any bumper stickers that relate to alcohol?
13. (For refusals or suppression) The State will not present any chemical test relating to the consumption of alcohol. Would any of you require such scientific evidence before you could render of finding of guilty?

Variation - The State will not present a blood or breath test demonstrating the amount of alcohol in the defendant's system. Such evidence is not required for the DUI charge in this case. Would any of you none-the-less require such scientific evidence before you could render a finding of guilty?

DUI DRUGS

- 1. Is there anyone on the panel who belongs to any organization whose purpose it is to prohibit the sale or use of drugs? (If yes, pursue in individual voir dire.) Same question for promote the legalization of all drugs.**

- 2. The defendant has been charged with two separate charges.**

It is not against the law of this State for a person to ingest drug and then drive an automobile. Those two factors, standing alone, do not constitute a violation of the law. For the A.R.S. 28-1381(A)(1) charge, a driver is in violation of the law only if the drug ingested impairs the defendant to the slightest degree. Would any of you have difficulties following this law?

For the A.R.S. 28-1381(A)(3) charge, a driver is in violation of the law if the defendant drove after ingesting a controlled drug and the drug ingested was not taken as prescribed by a licensed doctor. This charge does not require impairment. Would any of you have difficulties following this law?

Defendant has been charged with driving under the influence of drugs (alcohol, combination thereof) while impaired to the slightest degree. It is not a defense to the impairment DUI charge that he/she may have had a valid prescription for those drugs on the date of violation. Understanding this, would any of you nonetheless hold the state to a higher standard and find a defendant with a prescription to the drugs in or her system not guilty even if the evidence demonstrated beyond a

reasonable doubt that the defendant was impaired by the drugs to the slightest degree? (Pursue yes in individual voir dire.)

(Variation) Do any of you believe it should be legal to drive after taking a prescription drug regardless of any impairing effect the drug may have on the person? (Pursue yes in individual voir dire.)

- 3. Have any of you, any member of your family or close friend ever been involved in a traffic accident in which drugs or alcohol were allegedly involved? (Pursue in individual voir dire.)**
- 4. Have you, any member of your family or close friend ever taken the (prescription drug) _____? (Pursue yes in individual voir dire.)**

Did you, your family member or close friend drive after taking this drug?

- 5. Have any of you, any member of your immediate family or close friend ever been a victim of a crime in which drugs or alcohol were allegedly involved or any other crime?**
- 6. Do any of you consider yourselves, any member of your family or close friend to be a "recovered substance abuser", "substance abuser", "recovered alcoholic" or an "alcoholic"? (Pursue in individual voir dire.)**

7. Do any of you have personal feelings about the charge of DUI that might make it difficult for you to be completely fair and objective? (Pursue in individual voir dire.)
8. Do any of you believe ____ drug should be legal?
OR Do any of you believe all drugs should be legal?
9. Do any of you have any bumper stickers that relate to drugs or alcohol?
10. (For refusals/suppression) The State will not present any chemical test relating to the consumption of drugs. Would any of you require such scientific evidence before you could render of finding of guilty?

Variation - The State will not present a blood or urine test relating to the consumption of drugs. Such evidence is not required for the DUI charge in this case. Would any of you none-the-less require such scientific evidence before you could render a finding of guilty?